S.B. CIVIL WRIT PETITION NO. 2933/2006

Date : 13.07.2006

HON'BLE MR. BHAGWATI PRASAD, J.

Mr. P.S. Bhati for the petitioner.
Mr. P.C.Solanki for the respondents.

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Heard.

The grievance of the petitioner is that the State by creating a class within the class, by this way has discriminated the petitioner. The Defence personnels are only one class and creating class within Defence personnels is un-constitutional in the light of the Supreme Court decision in the matter of E.V. Chinnaiah Vs. State of A.P. & Ors. reported in (2005) 1 SCC 394. The reservation is provided for Defence personnel in the following terms :-

> "(e) Three seats out of the qualified candidates in the state Pre-Medical Test Examination shall be reserved on priority-cum-merit for the natural born (not adopted) sons/daughters of the defence personnel (Serving/Retired) of Rajasthan Origin."

I have considered the case cited above and the arguments of the learned counsel for the petitioner. As regards the case cited, the class of Scheduled Castes have been discussed, where Article 342 of the Constitution of India has given a definite nomenclature in classification to the Scheduled Castes. Therefore, sub-classification within that classification and defined class in the Constitution was held impermissible.

As far as Defence personnels are concerned, they are not defined as category entitled to reservation in the Constitution. It has been so done in the light of the fact that they being politically deprived section of the Society. Reservation to them has been given on priority-cum-merit basis. Priority has been defined in the reservation and first of the category is wards of Defence personnels killed in the action. If the nation cannot pay tribute to his soldier's kith and kin killed in action by placing them in such section, then it would be a situation which would show ingratitude to the persons killed in action. Other categories are also of the same kind and therefore, if reservation to the Defence personnels are provided on priority-cum-merit basis, then this Court feels that no disrimination can be seen. Reasonable classification is not prohibited by the Constitution of India. No case for interference is made out. The writ petition having no force is hereby dismissed.

(BHAGWATI PRASAD), J.

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